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FAX

To:	Council on Environmental Quality - NEPA Task Force
Fax #:	(801) 517-1021
Subject:	Notice and Request for Comments from the NEPA Task Force (67 Fed. Reg. 45510, July 9, 2002)
Date:	August 19, 2002
Pages:	4, including this cover sheet.

COMMENTS:

Attached are the comments of the National Ocean Industries Association with regard to the Notice and Request for Comments from the NEPA Task Force found in the July 9, 2002 *Federal Register*.

Please contact me directly if there are any transmission problems with this fax.

Best regards,
Tom Michels

From the desk of...

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RE: Notice and Request for Comments from the NEPA Task Force
(67 Fed. Reg. 45510, July 9, 2002).

Dear Sir or Madam:

The National Ocean Industries Association (NOIA) is pleased to respond to your request for comments on ways to improve and modernize National Environmental Policy Act (NEPA) analyses and documentation and to foster improved coordination among all levels of government and the public. NOIA is the only national trade association representing all segments of the offshore energy industry. The NOIA membership comprises more than 300 companies engaged in activities ranging from producing to drilling, engineering to marine and air transport, offshore construction to equipment manufacture and supply, and geophysical surveying to diving operations. Since our activities are subject to NEPA review and analysis, the Task Force is of particular importance to NOIA.

NOIA supports the efforts of agencies to comply with the procedures of NEPA and the Council on Environmental Quality (CEQ) regulations in order to ensure that environmental information is available to public officials and citizens before decisions are made. In recent years, however, the time, expense and other costs of completing environmental impact statements, environmental assessments, and related documents and processes represent a major burden for businesses, local governments, and individuals. Furthermore, third-parties use the procedural statute to litigate and forestall development, which causes agencies to conduct a NEPA process with the goal of creating legally "bullet-proof" documents, rather than producing the best decision based on the best scientific and other information.

We agree with the Task Force's assertion that agency planning and decision-making

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processes using NEPA can obtain higher levels of efficiency, clarity and ease of management through the improved use of existing authorities, better information management, improved interagency and intergovernmental collaboration, and the use of new technologies. We hope the Task Force will also consider statutory changes to the Act.

Question-Specific Comments:

Question A: Technology, Information Management and Information Security

NOIA commends the Task Force on its efforts to explore different means to gather information and to convey information and documents to the public. We support policies that allow agencies to provide documents to the public through the internet, as well as through more conventional sources, such as the *Federal Register* and newspapers of general distribution. Similarly, we agree that making NEPA documents available through the internet is useful to the public. However, we strongly urge that paper copies of documents be made available to the public, as well. Many agencies now place documents on the internet, and advise the public to read or print the documents from there, or to visit the agency office and read the document on-site. However, many of these documents are hundreds of pages long, and contain elaborate graphs and maps. Members of the public are not able to effectively participate in the process in these circumstances, and paper copies of the document should be available upon request.

Question B: Federal and Inter-Governmental Collaboration

NOIA recommends that agencies consult with other Federal agencies, as well as State agencies, tribes, and affected individuals early in the NEPA process. In particular, we are concerned when other Federal agencies and states do not participate in the process from the beginning, and then raise issues at the end of the process, greatly delaying the decision. We'd like to recommend that agencies with an interest in a proposal be required to participate from the beginning. In addition, agencies with other environmental and regulatory authority over the action due to statutes such as the Endangered Species Act or the Coastal Zone Management Act, should be required to conduct those reviews concurrently with the agency conducting the NEPA analysis. Without such coordination, a decision making process can take many years, and sometimes face perpetual gridlock.

Question D: Adaptive Management/Monitoring and Evaluation Plans

NOIA supports an approach which allows for approval of an action with uncertain outcomes by establishing performance-based environmental parameters or outcomes and monitoring to ensure they are achieved. Too often, restrictive stipulations are imposed which do not consider the rapidly changing technology which could be applied to achieve

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a more efficient and more favorable environmental result. We encourage the Task Force to ensure that agencies apply performance based, rather than prescriptive stipulations.

Question F: Additional Arcas for Consideration

NOIA is pleased that agencies often combine their NEPA processes with their planning requirements under Federal Land Policy and Management Act for the Bureau of Land Management, the National Forest Management Act for the Forest Service, and the Outer Continental Shelf Lands Act for the Minerals Management Service. The agencies are able to produce documents more efficiently by conducting the analyses concurrently, and producing one document instead of two. However, there are instances where the mandatory time frames for planning are longer than the mandatory time frames for NEPA. For example, the Bureau of Land Management mandates sixty days for the Governor's consistency review. This period begins to run at the same time as the thirty-day protest period for the planning document and 30-day availability period for the EIS. By changing the planning time frames to the times mandated in NEPA, valuable time can be saved, and the processes will be more efficient.

NOIA appreciates the opportunity to provide comments to the Task Force. If you have any questions or need additional information, please feel free to contact me at (202)347 6900.

Sincerely,



Kim Harb
Director, Government Affairs